



Serial No.: 10/015,314 :
Filing Date: 12/11/2001 :
Inventor: Loewenstein :
Group Art Unit: 3714 :
Examiner Rada :
Title: Poker Game :

DECLARATION OF TONY CELONA

I, Tony Celona, declare as follows:

1. I am Vice President of Video Gaming Operations and Marketing at Yonkers Raceway, in Yonkers, New York. We are in the process of installing 5,500 video gaming terminals at that location.

2. I make this declaration in support of pending patent application 10/015,314 to David Loewenstein.

3. Prior to my position at Yonkers Raceway, I was Vice President, Slot Operations for Foxwoods Casino in Mashantucket, CT 06339-3777. Foxwoods is the largest casino in the world and has over 7,000 slot machines. Among other duties I was responsible for reviewing new games and for purchasing games at the facility.

4. Prior to Foxwoods, I was Vice President, Slot Operations at Trump Taj Mahal Casino in Atlantic City, New Jersey. Trump Casino had approximately 3,800 slot games when I left. At Trump Casino, I was responsible Slot Marketing, Slot Operations, and the Slot Host Department an in addition to reviewing new games and purchasing games for that facility.

5. Altogether I have 24 years of experience in the gaming industry.

6. In addition to reviewing dozens of video poker, blackjack and slot games over the years, I have invented a number of video poker games myself and have received U.S. Patent No. 5,564,700 for one game.

7. I have read Exhibit A, which I understand are the claims in pending application 10/015,314.

8. One of the games I reviewed and had the opportunity to play was a game called "Big E" that is based on Howard Marks' United States Patent No. 5,882,260, Marks' game requires players to fill in a Hand Pattern, one card at a time. Although that game was built and placed into active play it was not successful. In my opinion, this was because it simply took too long to play. Players too to much time making decisions on where to place each card.

9. Casinos need poker games where the outcome can be accomplished within 5 or 6 seconds, and Marks' game took far longer than that for each hand.

10. By contrast, in Mr. Loewenstein inventions are entirely different and the strategy is completely distinctive from Marks, as are the rules of play and the card display.

11. Mr. Loewenstein's invention plays faster and provides critically useful information to the player to help him make informed decisions about what strategy to follow. The physical location of each selected card is not a factor in the game play and therefore speeds the play considerable.

12. I have also reviewed U.S. Patent No. 6,471,587 to Wood.

13. Wood does not provide any guidance or suggestion to combine its layout and strategy with Marks.

14. In my opinion, a person of ordinary skill in the art of playing poker, thinking along conventional lines would not have thought to combine the Marks and Wood's patents.

15. Marks' one at a time game does not lend itself to swapping and Wood does not suggest a multi hand game like Applicant's where common corner cards add to the complexity and challenge.

16. Even assuming Marks and Wood were combined, it would not yield a useful result. It is also unclear to me how this combination would function. Would the swaps be done after each of Marks' cards were dealt? After the entire hand pattern was dealt? In all events, if somehow Marks and Wood were combined, using Marks' Hand Patterns and Woods swapping, the game would be too slow in my judgment to have any commercial applicability.

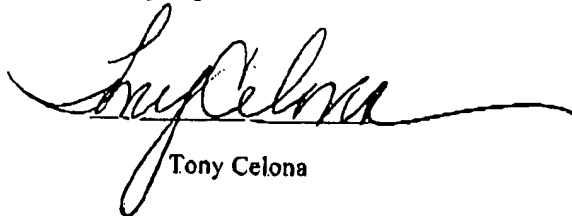
17. It is altogether unclear, from the description in the Woods and Marks patents, how one could modify Wood to have common cards, or Marks to use swapping.

18. I further conclude that even if these references were combined they would not yield the claimed inventions. For example, neither reference shows dealing cards at the outset in a diamond pattern with five cards on each side, and where the corner cards are common to adjacent hands, and swapping cards from adjacent hands.

19. In my opinion, Mr. [redacted] has followed a distinctly unique path that is inconsistent with the teaching of the prior art that would not have been obvious to a person of ordinary skill in the art.

I declare under the penalty of perjury that the foregoing is true and correct.

Dated: Oct. 18, 2004


Tony Celona

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APPENDIX A

1. A method to play video poker comprising the following steps:
dealing cards in a four sided, diamond shape, each side is a separate hand that has five cards, consisting of three interior cards and two corner cards, the corner cards are shared with two adjacent hands, a player can exchange cards from one hand to another hand, after all exchanges, each of the resulting hands is compared to a payable.
2. The method to play video poker of claim 1 comprising the following steps: dealing the three interior cards in each hand face up and the corner cards face down; the player is given the opportunity to exchange interior cards; the corner cards are revealed after all exchanges, and each of the resulting hands is compared to a payable after the corner cards are revealed.
3. The method of claim 1 where the three interior cards are dealt face up and the corner cards are dealt face up.
4. The method of claim 1 where the player can exchange corner cards, but the interior cards are not exchanged.
5. The method of claim 1 where a six-sided shape is used instead of a four-sided shape.
6. The method of claim 1 where an additional card is dealt that can be exchanged with one of the corner cards.
7. The method of claim 1 where an additional card is dealt that is a wild card.
8. The method of claim 1 where an eight-sided shape is used instead of a four-sided shape.

9. The method of claim 1 where a 10-sided shape is used instead of a four-sided shape.

10. An electronic apparatus used to play video poker games comprising at least one visual display, the visual display has cards represented in an n-sided closed figure, each side of the figure is a separate hand that has five cards consisting of three interior cards and two corner cards, the corner cards are shared with two adjacent hands, a player is dealt the three interior cards face up and the corner cards face down for each hand, the player then can exchange interior cards from one hand to another hand, after all exchanges, the corner cards are turned face up and each of the resulting hands is compared to a paytable.

11. The apparatus of claim 10 where the interior cards are dealt face down and the corner cards are dealt face up, and the corner cards can be exchanged.

12. The apparatus of claim 10 where all the cards are dealt face up.

13. The apparatus of claim 10 where an additional card is dealt that is used as a wild card.

14. The apparatus of claim 10 where an additional card is dealt that can be exchanged with any one of the corner cards.

16. The apparatus of claim 10 where the player must pay for each card exchange.

17. A method to play a video poker game comprising the step of dealing one or more pairs of hands with five cards in each hand, each hand consists of three interior cards and two end cards that are common to each pair of hands; the three

interior cards are dealt face up and the player can exchange interior cards between hands after all exchanges each of the resulting hands is compared to a payable.

18. The method of claim 17 where the end cards are dealt face down and are revealed after the player has exchanged cards.

19. The method of claim 17 where two pairs of hands are dealt so that each hand has three interior cards and all hands share two common end cards.

23. A method to play a video poker game that comprises the following steps:

- (a) dealing cards in a four sided diamond shape, consisting of 16 cards, where each side is a separate hand that has five cards consisting of three interior cards and two corner cards, the corner cards are shared with two adjacent hands,
- (b) permitting a player to exchange cards from one hand to another hand;
- (c) after the exchanges, comparing each of the resulting hands to a payable; and
- (d) paying the player according to amounts set out in the payable for each hand.

26. A method to play video poker comprising the following steps:
dealing cards in a four sided, diamond shape, each side is a separate hand that has five cards, consisting of three interior cards and two corner cards, the corner cards are shared with two adjacent hands, a player can exchange cards from one hand to another hand, and

the player can then perform a second exchange of the same cards; after all exchanges, each of the resulting hands is compared to a paytable.

27. A method to play video poker comprising the following steps:
dealing cards in a four sided, diamond shape, each side is a separate hand that has five cards, consisting of three interior cards and two corner cards, the corner cards are shared with two adjacent hands, a player can exchange cards from one hand to another hand, where the swaps are limited to a predetermined number; after all exchanges, each of the resulting hands is compared to a paytable.